



Appeal Decision

Site visit made on 8 October 2024

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 October 2024

Appeal Ref: APP/J1915/W/24/3337946

138 Fore Street, Hertford SG14 1AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr G. Martorana (Martorana Properties) against the decision of East Hertfordshire District Council.
 - The application Ref is 3/21/0633/FUL.
 - The development proposed is Demolition of the existing building and erection of a new mixed-use development, comprising a retail/commercial unit on the ground floor; seven two-bedroom flats; six one-bed flats and associated car parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Prior to the determination of the planning application, revised plans were submitted to the Council. However, the Council has stated that the plans were not the subject of consultation. Although these were submitted before a decision was made, they amount to significant amendments that interested parties should have the opportunity to comment upon. In consequence, it would cause prejudice to have regard to these revisions.
3. A viability assessment was also submitted. I have considered this document as it has been received by the Council, is referenced in the Appellant's Statement of Case and does not change the physical scheme.
4. Notwithstanding the description used on the application form; the Council's decision notice; and the appeal form, it is apparent that following the submission of amended plans, the scheme was changed to include four two-bedroom flats and nine one-bedroom flats. This is confirmed in the Appellant's Statement of Case. Therefore, whilst I have utilised the formal description of the development above; I have determined the appeal with reference to the plans formally considered by the Council.

Main Issues

5. The main issues relevant to this appeal are:
 - the effect of the development upon the character and appearance of the area;
 - the effect of the development upon the character and appearance of the Hertford Conservation Area; and

- whether appropriate living conditions would be provided for the future occupiers of the development.

Reasons

Character and appearance

6. The site is between Fore Street and Gascoyne Way and near to the junction between Fore Street and South Street. A unifying trend in the surrounding area is that buildings are typically constructed to traditional designs, with pitched roofs. However, there are a few exceptions to this as there are a limited number of nearby modern buildings including a supermarket, takeaway and a multi-storey car park.
7. Although the proposed building would have a height comparable to some of the existing, older, buildings in Fore Street, it would have a divergent design. In particular, the new building would have a large footprint that would stretch from the front to rear boundaries of the site. In addition, the building would have a flat roof, with few variations in height. These characteristics would create a building that is significantly bulkier than those nearby. The scheme would include some balconies, but these would be sited on a single elevation, which would not result in a lower level of massing. The bulky design would also be exacerbated by the fenestration pattern on the eastern elevation, which means that there would be limited architectural detailing to break up the massing of the building. This means that the proposed building would not assimilate to its surroundings.
8. A notable feature of existing buildings in Fore Street is that windows on the upper storeys are smaller than those that serve rooms on lower floors and are consistently spaced. In contrast, the proposed development features a uniform window size on the upper floors. Furthermore, a few of the windows on the western elevation feature irregular spacing. Although located behind a takeaway building, the front wall of the proposal would feature a section lacking in windows. Therefore, a blank wall would be readily viewable and would create a bleak building in contrast to its surroundings. Therefore, these factors create a building that would be notably discordant. Although the proposal would replace the existing buildings, these are much smaller than the proposal would be and, in result, these structures do not give rise to the same adverse effects that the proposal would.
9. The adverse effects would be experienced from several locations, which including Fore Street itself. Given the town centre location, there is a notable likelihood that there would be many people and traffic passing the appeal site. Furthermore, the front elevation of the development would be visible from South Street and the junction between South Street and Railway Street. Although the adjacent supermarket would provide some screening, the relatively greater height of the new buildings means that its bulky form would be readily experienced from the eastern part of Fore Street. The development would also be viewable from the multi-storey car park. In consequence, the bulk of the development would be readily experienced along with the contrasting roof shape.
10. Due to the scale of the building, there is limited room for soft landscaping. However, the surrounding area generally features soft landscaping in relatively small amounts. Furthermore, the existing buildings occupy a relatively large

proportion of the site, which when combined with the existing areas of hard standing means that the development would not result in a notable loss of existing planting. Accordingly, the absence of notable landscaped areas means there would not be an adverse effect upon the character. Moreover, the presence of existing areas of hardstanding would mean that the development would not be car dominated. A further softening of the development would arise from the proposed 'green wall' that would be present to the rear of the building.

11. Although detectable from Gascoyne Way, the scheme would be viewed alongside the multi-storey car park and a modern office building. These are constructed to functional styles of architecture and from this vantage point, the development would not appear incongruous. Furthermore, the pedestrian walkway is screened from the site by landscaping and a wall. As passersby are likely to be travelling, these factors mean that views of the development are likely to be of a glimpsed nature and would not erode the character of Gascoyne Way. However, this would not overcome the previously identified adverse effects.
12. The Council have referred to Policy DES3 of the East Hertfordshire District Plan (2018) (the District Plan). This policy refers to the need to retain, protect and enhance existing landscape facilities; and where seek replacements where losses are unavoidable. Owing to the nature and scope of the proposals and condition of the existing site, this policy is not applicable to this scheme.
13. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policy DES4 of the District Plan. Amongst other matters, this requires that all development proposals must be of a high standard of design and layout.

Effect on the Conservation Area

14. Although the Council's Decision Notice refers to the setting of the Hertford Conservation Area (the CA), the provided map of the CA shows that the appeal site is within it. This is confirmed by the appellant's Statement of Case. For the purposes of this appeal, the significance of the CA is, in part, derived from its importance in highlighting the original town centre and the contrast between the town centre and the more modern development in the wider area. Therefore, the CA has historical significance. Furthermore, buildings are typically located in a linear form and encompass the full width of plots. In result, the CA provides evidential value regarding historic building patterns and designs, irrespective that some alterations have taken place elsewhere.
15. Whilst the surrounding area features buildings that are constructed to differing designs, a unifying trend is the presence of architectural features, such as pitched roofs, consistent fenestration patterns and materials. Although the proposal might feature traditional building materials, the development would have several elements not reflected in the surrounding area. These include the roof and fenestration pattern. Furthermore, the building would include under-croft car parking, which is a feature not readily perceptible elsewhere in the vicinity. In result, the proposed development's modern design would conflict with the prevailing traditional architecture that is a feature of the CA. As such, the historical significance of the CA would be compromised by the development.

16. Although the site appears to be in the appellant's ownership, it currently contains a mixture of buildings that are relatively small in scale. Therefore, the site reflects the character of the CA in that buildings typically have smaller footprints and are arranged in a broadly linear manner. In contrast, the development would extend rearwards from the front boundary and behind the existing neighbouring takeaway. In consequence, the proposed development would erode the characteristic of a linear pattern of buildings by reason of its depth. Furthermore, the building would have the appearance of occupying multiple plots due to its width.
17. While the proposal might have a comparable footprint to the existing buildings, its greater bulk and mass means that it would be more perceptible. Whilst there are some relatively long buildings nearby, including a supermarket, these are much smaller and less prominent than the appeal scheme would be. Therefore, they do not give rise to the same adverse effects and, in consequence, do not allow me to forego the preceding concerns. Accordingly, the proposal would erode the evidential value of the CA.
18. I therefore conclude that the development would have an adverse effect upon the character and appearance of the CA. The development, in this regard, would conflict with the requirements of Policy HA4 of the District Plan. Amongst other matters, this states that new development in Conservation Areas will be permitted if they preserve or enhance the special interest, character, and appearance of the area.

Living conditions

19. The site is in the town centre, with several commercial businesses nearby. These can be expected to be open during the late evening or night-time periods. Furthermore, the site is near to roads that appear to be relatively highly used and a multi storey car park, which is also of a large scale. Owing to the pattern of development elsewhere in the surrounding area, most of the windows that would serve the development would be located on the front elevation facing Fore Street and a side wall.
20. It is likely that some noise would be generated in neighbouring properties, which may be more notable during periods when residents of the development would expect greater degrees of peace and quiet. Nonetheless, the appellant submitted, with the planning application, a noise assessment. Although this demonstrates that there are notable sources of noise in the surrounding area, the assessment also demonstrates that it would be possible, through the construction methods of the building, to mitigate any adverse effects arising from this. Furthermore, the assessment also indicates that these noise levels can be achieved irrespective of whether the windows are closed.
21. If windows were to be open, it is likely that noises in the surrounding area would be audible inside the proposed flats, however, the noise assessment also demonstrates that mechanical ventilation would also be installed. This would mean that should a resident prefer not to open their windows; they would have access to a source of fresh air and be able to regulate temperature in the home. Moreover, most of the flats feature balconies, which would provide an additional facility for some residents to access fresh air.
22. Although some of the flats would feature windows on a single elevation, the appellant has indicated that details regarding overheating would be addressed

under the relevant Building Regulations. The Council has not submitted any compelling evidence that challenges this position. Furthermore, most of the windows would face a westerly direction. Consequently, it is unlikely that significantly large amounts of sunlight would be directed into the rooms of the proposed homes for large portions of the day. Irrespective of this, the proposal would feature opening windows and mechanical ventilation, which means that residents would have an opportunity to adequately ventilate their homes. This means that the development would not be overheated.

23. Balconies would provide outdoor space for most of the occupiers allowing for some outdoors recreation. It has also been demonstrated that the scheme would not currently be viable for a financial contribution to be made. Furthermore, the appellant's Statement of Case confirms that the flats would comply with the National Described Space Standards. This, when combined with the number of bedrooms that each home would have, means that future occupiers would have sufficient room for the storage of household items and placing of furniture whilst allowing for sufficient circulation space.
24. Existing buildings would be located a relatively large distance from the proposed building's elevations. Moreover, existing buildings are arranged in a linear form that runs perpendicular to both Fore Street and Gascoyne Way or of lower heights. In result, the windows of the development would have a generally open aspect that would ensure an appropriate level of outlook. Furthermore, the balconies feature room for some planting. Although this would be of small scale, there are no adopted planning policies that specify a minimum provision. In consequence, the planting would serve to soften views of the more engineered surroundings. These measures, when combined, are sufficient to ensure that occupiers have an appropriate level of outlook.
25. The ground floor of the building features a room that could be utilised for the storage of refuse and materials for recycling. This would be conveniently located and would ensure that such items are appropriately, and tidily, stored whilst awaiting collection. Had I allowed this appeal, a condition that would have ensured the provision and retention of this storage throughout the life of the development, could have been imposed. Additionally, the size of the proposed homes indicates that they would not be occupied by large households. This means that some refuse could be readily stored within each home, pending collection. Moreover, the site features sufficient room to allow for the refuse to be collected.
26. I therefore conclude that the proposed development would provide appropriate living conditions for its future occupiers. The development, in this regard, would comply with the requirements of District Plan Policies CC1, DES4 and EQ1; the Hertfordshire Waste Local Plan; and the East Hertfordshire Open Space, Sport and Recreation Supplementary Planning Document. Amongst other matters, these seek to ensure that proposals demonstrate that the design, materials, construction, and operation of the development would minimise overheating in summer; make provision for the storage of bins; and that noise sensitive development should be located away from existing noise generating sources.

Other Matters

27. The site is near to Listed Buildings. However, as the appeal is being dismissed, the proposal would not have an adverse effect upon their setting.

28. The development would result in the retention of a pedestrian route and would not have an adverse effect upon air quality and flood risk. Whilst these are matters of note, they are unrelated from the main issues and therefore do not lead me to a different conclusion.

Heritage Balance

29. The harm to the character and appearance of the CA would not be severe and therefore it would be 'less than substantial' within the meaning of the National Planning Policy Framework (the Framework). Paragraph 208 of the Framework requires that such harm to be weighed against the public benefits of the proposal.
30. In this instance, the proposal would result in an increase in the overall housing supply in the area in an accessible location. However, although a previous appeal decision has been submitted which assessed the housing land supply position, the Council have confirmed, in their Statement of Case, that there is now a five-year housing land supply. This position has been acknowledged by the appellant in their Final Comments. Accordingly, the Council is currently significantly boosting the supply of homes. Therefore, given the number of new homes that would be generated in the proposal, the increase in the overall local housing supply carries a limited amount of weight.
31. The Council's Committee report indicates that the development would deliver some on-site affordable housing. If this were to be the case, there is no completed legal agreement before me. This means that there is no certainty that the affordable housing would be delivered. Even if I were minded to agree with the findings of the submitted viability assessment, the completed development would not come forward if a proportion of the development was made available for occupation on affordable tenures. In consequence, the potential delivery of affordable housing is a matter that carries limited weight, for I do not have certainty that it can be delivered.
32. The development would result in the reuse of previously developed land. However, I do not have any evidence regarding attempts to market the property for redevelopment and whether other uses or schemes are not feasible. In consequence, it has not been demonstrated that the appeal scheme is the only means by which the site might be developed. In consequence, the reuse of the site carries limited weight.
33. The construction and occupation of the development would generate some economic benefits. However, any such economic benefits arising from the construction process are likely to be time-limited in duration. In addition, the size of the homes is such that they are unlikely to be accommodated by large sized households. Therefore, there is unlikely to be significant amounts of patronage of local businesses and services. In addition, there is no evidence before me that is indicative that existing businesses are struggling for custom. Furthermore, the development would include a new commercial unit. However, it has not been demonstrated that the existing unit is not desirable for a modern occupier. Therefore, the economic benefits can also be given a limited amount of weight.
34. The development would result in some improvements to biodiversity. However, it is unclear as to how the ongoing maintenance of this would be secured throughout the life of the development. Moreover, such improvements

would not be, in quantitative terms, of a large amount, meaning this matter also can be attributed a limited amount of weight.

35. Therefore, when giving great weight to the special attention I must pay to the desirability of preserving or enhancing the character and appearance of the CA, I find that the harm that would arise from the proposal would not be outweighed by its limited public benefits. Accordingly, there would be a conflict with Paragraph 206 of the Framework as harm to designated heritage assets would not have clear and convincing justification.

Conclusion

36. The scheme would conflict with the Development Plan taken as a whole. There are no other material considerations that would indicate that the decision should be made other than in accordance with the Development Plan. Accordingly, for the preceding reasons, the appeal should be dismissed.

Benjamin Clarke

INSPECTOR



Appeal Decision

Site visit made on 7 May 2024

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2024

Appeal Ref: APP/J1915/W/23/3325171

Land at Church Lane, Hunsdon, Hertfordshire SG12 8PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Richard Page against the decision of East Hertfordshire District Council.
- The application Ref is 3/22/2156/FUL.
- The development proposed is a self-build dwelling and associated garage and access.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is in proximity to a number of listed buildings, namely Grade I Hunsdon House to East of Parish Church (hereafter referred to as Hunsdon House)¹; Grade I Parish Church of St Dunstan (Church of England) ¾ Mile South of Village (hereafter referred to as Parish Church of St Dunstan)²; and Grade II Hunsdon House Lodge 280 metres North of Church (hereafter referred to as Hunsdon House Lodge)³.
3. With regard to these designated heritage assets, the Council's decision notice only cites perceived effects to Hunsdon House and its setting. Nonetheless, mindful of my statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess. I am also aware of the representations by interested parties on this matter. On this basis I have included them as part of the main issue concerning heritage matters. Given that both parties have referred to these listed buildings and their settings in their representations, I am satisfied that their interests would not be prejudiced by my approach.
4. Since the appeal was submitted, the Council have published an updated housing land supply position⁴. The Appellant provided comments on the updated housing land supply position⁵. I will return to this later on.
5. In July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and the National

¹ List Entry 1347687

² List Entry 1101973

³ List Entry 1176041

⁴ East Herts Five Year Land Supply Position Statement Addendum – April 2024

⁵ DLA Town Planning Letter dated 22 May 2024

Planning Policy Framework: draft text for consultation. The proposed reforms are draft and therefore may be subject to change before the final document is published however the parties have been given the opportunity to provide comments, which I have taken into account in my consideration of this appeal.

6. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
7. The original planning refusal included reason 4 relating to insufficient information having been provided to determine the presence of bat roosts. The Council, in their statement of case⁶, have confirmed that following the submission of a climbing survey⁷ it has been confirmed that there are no signs of potential bat habitats or bats present, and no sign of birds nesting. Therefore, reason for refusal 4 has been addressed and I have little before me that would lead me to conclude otherwise.

Main Issues

8. The main issues are:

- Whether the development would be in a suitable location with particular regard to access to services and facilities;
- The effect of the development on the character and appearance of the area and the countryside;
- Whether the proposal would preserve the settings of the Grade I listed buildings, Hunsdon House and Parish Church of St Dunstan, and the Grade II listed building Hunsdon House Lodge; and
- the effect of the development on the non-designated heritage assets of the surviving WWII structures and Hunsdonbury Historic Park⁸.

Reasons

Location

9. The appeal site comprises a parcel of land accessed off Church Lane. It is bounded by hedging, trees and post and wire fencing and there is a gate across the existing access point. The site extends back from Church Lane and forms an irregular shape and is grassed.
10. The main settlement of Hunsdon is located to the north of the appeal site. The appeal site sits within a small hamlet of properties known as Hunsdonbury, which is relatively detached from the main village. Immediately outside of the appeal site there are no footpaths along the road.
11. Policy DPS2 of the East Herts District Plan (2018) (District Plan) outlines the settlement hierarchy and identifies that the third strand of the hierarchy would

⁶ Paragraphs 19 and 20

⁷ Appendix B Appellant's Statement of Case

⁸ Also referred to as Locally Important Hunsdonbury Historic Park and Garden on the Neighbourhood Plan Policies Map Figure 11

- be limited development in the villages. The appeal site falls outside of the village of Hunsdon.
12. The appeal site also falls within the Rural Area Beyond the Green Belt. Policy GBR2 of the District Plan lists the types of development that would be permitted within these areas, provided they are compatible with the character and appearance of the rural area. In relation to new housing, the policy allows for limited infilling or the partial or complete development of previously developed sites in sustainable locations and rural exception housing, amongst other things.
 13. There are a number of facilities within walking distance of the appeal site, including a village hall, school, post office and church⁹, however the suitability of the walk as well as the distance needs to be considered. The proposal would provide a new stretch of footpath from the driveway to the north eastern corner of the appeal site, which would be closer to the main village than the main vehicular access. However the remaining route along Church Lane is poorly lit, with blind bends and high verges which would make it difficult for drivers to see pedestrians. Furthermore, the roadway is reasonably narrow leaving little room for two cars to pass if a pedestrian or cyclist was in the road.
 14. There are footpaths which cross through the countryside and Footpath Number 4 runs through the appeal site which could provide alternatives to walking along the main road for the entirety of the journey. However, Footpath Number 4 is not a direct route, coming out along Hunsdonbury, and would still require some parts of that road which are unlit and without footpaths, to be traversed before reaching the nearest footpaths.
 15. There is an existing hourly bus service to Hertford and Bishops Stortford as well as rail connections. The nearest bus stop is within Hunsdon, and the nearest stations are in Harlow Town and Stansteads Abbots. Whilst the bus stop is within walking distance from the appeal site and the stations are within a reasonable cycling distance, the suitability of the routes would be likely to discourage pedestrians and cyclists for the above reasons. As such, whilst these facilities are available, I do not consider that they are suitably accessible for pedestrians and cyclists and would likely result in a reliance on the use of private vehicles in the first instance.
 16. The Appellant considers the appeal site forms previously developed land. The Framework, in the Glossary, defines previously developed land as being land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. It also identifies a list of exclusions to this definition, comprising land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape amongst other things. The appeal site was occupied by WWII shelters and mess buildings, and three small buildings remain on site. Markings remain on the ground where other WWII buildings were once sited.
 17. The Council do not dispute that the appeal site may constitute previously developed land however state that the proposed dwelling and garage would not be sited on an area which is currently occupied by an existing structure. Nevertheless, I consider that, notwithstanding the location of the proposed

⁹ Table 1 of Appellant's Statement of Case

dwelling, there is evidence of the previous development on the wider appeal site as a whole and based on the historic plan¹⁰ of the site it would be reasonable to conclude the dwelling would be within the curtilage of the previous structures. As such, I find that the appeal site does constitute previously developed land in this instance.

18. Given the site's distance from the main settlement and notwithstanding the provision of an additional area of footpath within the appeal site, the pedestrian access into the village would be poorly lit, narrow and unlikely to provide an attractive route for pedestrians from the appeal site. Whilst one dwelling would not generate significant levels of additional vehicle movement, the development would conflict with policies DPS2, GBR2 and TRA1 of the District Plan and Policy HT1 of the Hunsdon Neighbourhood Plan 2019 – 2033 (Neighbourhood Plan). These seek to maintain the Rural Area Beyond the Green Belt as a valued countryside resource and deliver sustainable development in accordance with the settlement hierarchy, amongst other things.

Character and Appearance and the Countryside

19. The appeal site is located within an area characterised by a small cluster of properties forming the hamlet of Hunsdonbury, set within the wider rural landscape and countryside. Most of the properties sit along the opposite side of Church Lane to the appeal site.
20. The appeal site is located within the Rural Area Beyond the Green Belt for the purposes of Policy GBR2(e). This policy indicates that certain types of development in these areas would be permitted provided that they are limited infilling or the partial or complete development of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings) in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding areas.
21. The appeal site also falls within Area 81 of the Landscape Character Assessment Supplementary Planning Document. The Character Assessment seeks to ensure proposed development is only permitted where it will enhance local landscape character, amongst other things.
22. The appeal site is currently occupied by trees, hedging and grassland. Markings of buildings and small existing structures remain. The introduction of a dwelling into the appeal site would reflect the general form in the immediate locality of individual properties set within substantial, spacious and verdant curtilages. However, the existing properties are located on the other side of Church Lane. Therefore, the property would introduce a built form into an area which, aside from the small structures within the site itself, and the existing development located along Hunsdonbury to the north, is rural, undeveloped countryside.
23. The proposed dwelling would be sited centrally within the narrower part of the appeal site. It would be a two-storey property comprising a contemporary Huf-Haus style, post and beam house with asymmetrical roofing. It would be constructed of timber with large areas of glazing. It would have an open plan arrangement. The proposal would also include a detached garage with flat roof

¹⁰ Figure 9 Appellant's Statement of Case

and a new vehicular access and pedestrian access. The detached garage block would be located along the southern side boundary.

24. The dwelling would be constructed using highly sustainable principles including a generous roof overhang to keep the property cool during summer, the use of timber and glazing, external blinds, triple-glazed windows, the installation of PV panels and underfloor heating. There would also be a charging point for electric bikes and an air source heat pump. This would reduce overall energy uses and the carbon footprint of the property and would mean there would be no need for gas or oil pipelines. This would be a consideration in favour of the proposal.
25. There are existing established trees and hedging around and within the appeal site and the proposed dwelling would nestle within the trees and be set back from Church Lane. There may be the removal of a frontage tree to facilitate the access point. Whilst the proposal would introduce a built form into this side of Church Lane, the proposed design, scale, siting, orientation and materials of the dwelling would assist in minimising the overall visual impact of the property and would result in a degree of assimilation into the rural landscape. Nevertheless, despite the overall design minimising the overall impact, the appeal site sits within an undeveloped area, therefore the introduction of a property along the western side of Church Lane would be at odds with the prevailing character of the immediate area. Whilst the site is previously developed land and there are the surviving WWII structures on the site, these are very modest in scale and are heavily assimilated into the landscape.
26. As such, the proposal would be in conflict with Policies DES2, DES4 and GBR2 of the District Plan and HHD6 of the Neighbourhood Plan. Collectively, these seek to ensure that development conserves, enhances or strengthens the character and distinctive features of the district's landscape, promotes local distinctiveness, and where the land is previously developed (brownfield land), be appropriate to the character and setting of the site and/or surrounding area, amongst other things.

Listed Buildings

Hunsdon House

27. The appeal site is close to Hunsdon House which is a mid-15th century moated country house and, being Grade I listed, a designated heritage asset of the highest significance. It is set adjacent to the Parish Church of St Dunstan and is visible from Church Lane. The property is set back from the Church and faces towards the main road. It comprises a wide frontage with red brick and is of a substantial scale. The property has undergone some extensions and alterations throughout the years including for the occupation of Henry VIII and subsequent occupiers. It has formal laid out gardens which are reasonably extensive, stretching out behind the Church and churchyard. Its driveway is bounded by elaborate and highly detailed wrought iron gates.
28. Its special interest and significance mainly lies in it remaining one of the most important medieval houses in the country, and it has been described by Pevsner (1977) as a house of the greatest historical interest.
29. Pertinent to the appeal, Hunsdon House's proximate landscaped gardens, as well as its wider parkland surroundings also add in a meaningful way to the building's heritage merit. This is due to not only the surrounding land's physical

and visual relationships with the listed building, but also its historic functional associations with the House, arising from its use as a deer park and for pastimes such as hunting by the Tudor monarchs.

The open, undeveloped and verdant character of the listed building's wider setting, which includes the appeal site, adds to the authenticity of experiencing Hunsdon House and the appreciation of its significance. As such, the listed building's wider setting, including the appeal site, contributes in a positive way to its special interest and significance.

Parish Church of St Dunstan

30. Adjacent to Hunsdon House is the Grade I Listed Parish Church of St Dunstan, also a designated heritage asset of the highest significance. It dates from the early 14th century, part of which was constructed at the same time as Hunsdon House. It is constructed of flint rubble with stone detailing and a tiled roof and the tower fronts onto Church Lane with a narrow, tiled spire rising from the tower parapet. It sits within a modest, landscaped churchyard and is bounded to Church Lane by a red brick wall and iron gates.
31. Its special interest and significance largely stems from it being a fine example of a late medieval parish church and its timber porch is reported to be the oldest example of such in the country. Collectively, as a result of its construction, materials and internal and external detailing it holds outstanding interest and forms a highly important landmark building, highlighted by its location in relation to Church Lane and the surrounding public realm. Due to its proximity to Hunsdon House and its location nestled within the wider grounds of the listed property, it forms an important and picturesque historic group with Hunsdon House and therefore their significance is historically intertwined.
32. Relevant to the appeal, this listed building's special interest and significance are also derived in part from its setting. The relationship of the Parish Church of St Dunstan with Hunsdon House and its subsequent associations with the partly open, partly wooded parkland surroundings, add in a positive way to appreciate the Church's heritage merit.
33. Therefore, the Parish Church of St Dunstan's wider setting, including the appeal site, contributes in a positive way to its special interest and significance.

Hunsdon House Lodge

34. Hunsdon House Lodge is a Grade II listed building located opposite the appeal site. It is a one and a half storey Gothic former gate lodge of brick and tile construction. It is set adjacent to an ample driveway and within a large, landscaped curtilage.
35. The special interest and significance of Hunsdon House Lodge is largely appreciated through its example of a Gothic lodge that would have originally been related to Hunsdon House. It retains historic Gothic detailing and these intrinsic architectural qualities, coupled with the use of local materials, provide an eye-catching and striking example of a mid-19th century property.
36. Pertinent to the appeal, the special interest and significance of this asset also stems in part from its setting with strong historic and functional associations of the Lodge with Hunsdon House and this with the surrounding parkland. The rural, open and undeveloped character of this listed building's wider setting

allows Hunsdon House Lodge to be experienced and its significance appreciated in an authentic and legible way. As such, the listed building's wider setting, which includes the appeal site opposite, contributes in a positive way to its special interest and significance.

Non designated heritage assets

Surviving WWII Structures

37. Within the appeal site itself are a series of historic structures comprising two Stantons and a mess building, dating from World War II. These are associated with the wider RAF Hunsdon site which is a Scheduled Monument (List Entry 1020748) however do not themselves form part of the scheduling. In addition, there are markings of the other former huts visible on the ground.
38. The non-designated heritage assets within the appeal site, mainly derive their significance as well-preserved examples of historic war structures. They relate in part to the wider historical significance of the network of military sites including the airfield at RAF Hunsdon and other related wartime remains and provide an understanding of the airfield and how it was historically laid out and functioned. These shelters remain in reasonably good condition, with access retained, and the original concrete panel with an earth covering above. The mess building still has evidence of the internal room layouts and fittings and appears also to remain in a reasonable condition.
39. Their significance is also gained in part from their immediate and wider surroundings. The open and undeveloped nature of the appeal site enables their associations with each other and to the wider RAF Hunsdon Site to be understood and appreciated. As such, the structures' immediate setting contributes in a positive and tangible way to their significance.

Hunsdonbury Historic Park

40. Hunsdonbury Historic Park is identified as a non-designated heritage asset in the Hunsdon Area Neighbourhood Plan (Policy HHC2). The appeal site abuts the northern boundary of this asset. The appeal site allows for partial views across Hunsdonbury Historic Park through the existing vegetation.
41. The significance of this Historic Park is derived from its contribution to the historic Deer Park established by Henry VIII. It formed part of the wider estate, strongly associated with the nearby listed buildings, and remains connected, allowing the undeveloped and rural character of the land surrounding the asset and its significance to be appreciated. Thus, the asset's setting which includes the appeal site, positively contributes to its significance.

Effects of the proposal

Listed Buildings

42. The appeal proposal would be located within the centre of the appeal site with the proposed garage set further forward towards the road. In relation to the Grade I listed group consisting of Hunsdon House and the Parish Church of St Dunstan the appeal site is located some distance from these and in visual terms would be unlikely to have an unduly harmful effect. However, the setting of listed buildings is not restricted to just a visual and physical component and the wider historic network is also required to be considered. The historic

significance of the wider Hunsdon House Lodge and associated parkland is tied to Hunsdon House and the Parish Church of St Dunstan which would have been historically linked. Whilst the intervisibility of the appeal site and Hunsdon House and the Parish Church of St Dunstan is limited by intervening vegetation and the road, the significance of the wider historic parkland is still appreciated.

43. Notwithstanding the degree of physical separation between the appeal site and the Grade I listed buildings themselves, the proposal would result in the introduction of built form comprising both the dwelling and garage, and including extensive hard landscaping for the driveway and access and formal landscaping within the wider setting. This would result in the erosion of the open quality of the site and would adversely affect the characteristics of the wider setting. This would, in turn, dilute the ability to appreciate the historic relationship between the listed buildings and the surrounding landscape.
44. Hunsdon House Lodge is located on the opposite side of the road to the appeal site but is nevertheless seen in the context of the site. The set back of the dwelling and the overall design and screening would reduce the visual impact between the properties somewhat, however Hunsdon House Lodge forms part of the wider former Hunsdon House Estate which includes the surrounding parkland.
45. The proposed development would appear as an intrusion into the undeveloped and verdant site which currently makes a positive contribution to the setting of the listed buildings. This would therefore alter the character and appearance of this area and the relationship between the designated heritage assets and their legibility.
46. The proposal would therefore undermine the authenticity of experiencing the assets and would affect the ability to appreciate their significance. As a result, it would fail to preserve the assets' setting and thus would harm their significance.

Non-designated Heritage Assets

47. All of the surviving WWII structures would remain in situ and intact as part of the proposal. At present, the structures within the site are modest and successfully assimilated into the landscape. They are sited so as to be partially hidden which reflect the intentions of locating them in a discrete manner in the first place. To introduce a property into the appeal site would bring with it ancillary domestic structures and areas of hardstanding. Furthermore, the proposed garage would sit close to the front air raid shelter building, with a driveway and access running alongside. The proximity of the garage and hardstanding to this historic building would be overbearing and distract from the historical legibility of the wartime structures.
48. The appeal site adjoins the Hunsdonbury Historic Park and Garden. The introduction of a dwelling into the appeal site would result in a degree of disruption to the open rural character associated with the parkland setting. This, in turn would result in a change in the historic character of the connected sites and introduce an alien and out of character structure into this wider setting. As such, the proposal would diminish the contribution that the setting of this parkland landscape makes to the historic understanding and experience of the area and would erode its significance.

49. Accordingly, I conclude that the proposal would fail to preserve the settings of the Grade I listed buildings, Hunsdon House and Parish Church of St Dunstan, and the Grade II listed building Hunsdon House Lodge, and would harm the significance of these designated heritage assets. The proposal would therefore conflict with the statutory presumption of section 66(1) of the Act. Based on the scale and nature of the proposed development, the level of harm individually and cumulatively would be less than substantial in this instance but nevertheless be of considerable importance and weight.
50. Furthermore, the development would result in harm to significance of the non-designated heritage assets of the surviving WWII structures and Hunsdonbury Historic Park.
51. The proposal would also fail to comply with Policies HA1, HA2 and HA7 of the District Plan and Policies HHC1 and HHC2 of the Neighbourhood Plan. These require development to preserve and enhance the significance of the assets and their settings in the Area, and where non-designated heritage assets are affected, a balanced judgement should be made having regard to the scale of any harm of loss and any less than substantial harm should be weighed against the public benefits of the proposal, amongst other things.

Other Matters

52. The proposal would be a self-build dwelling and the Council acknowledge that there is currently a shortfall in the provision of self-build plots within the District. The provision of a self-build plot would therefore be a benefit, albeit it would only make a limited contribution to the shortfall.
53. The Council published their Five-Year Land Supply Position Statement Addendum – April 2024 which identified that they could now demonstrate a 5.95 year housing land supply position. The Appellant has raised some doubts about the delivery assumptions and windfall allowances however state that the changes are unlikely to be sufficient to undermine the overall five-year supply. As such, the Council's ability to demonstrate a five-year supply is not disputed and therefore the tilted balance referred to in the Framework is not engaged in this case.
54. Letters of objection have been received from the Hunsdon Parish Council and a local resident in relation to the appeal. However, given my overall findings on the case it is not necessary for me to address these further.

Heritage Balance

55. The Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). I have identified that less than substantial harm would arise to the designated heritage assets through development within their settings. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes securing the optimum viable use of the heritage asset.
56. Paragraph 209 of the Framework identifies that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and a balanced judgement will be

required having regard to the scale of any harm of loss and the significance of the heritage asset. I have found that the proposal would result in some harm to the significance of the non-designated heritage assets from development within their setting.

57. Benefits would arise from the provision of a property towards the Council's custom and self-build requirements, as well as the use of previously developed land and the high environmental and sustainability standards that the property would be constructed to. There would also be a heritage benefit arising as a result of the retention of the surviving WWII structures within the appeal site. The proposal would also give the opportunity for someone to occupy the appeal site and therefore attend to the ongoing maintenance of these historic structures. However, whilst this is a likely benefit, there is no formal mechanism put forwards for this to be secured.
58. Taking into consideration the public benefits that would arise from the appeal proposal, I consider that these would not be sufficient to outweigh the considerable importance and weight I attach to the less than substantial harm to the significance of the designated heritage assets arising for the above reasons.
59. Furthermore, in undertaking a balanced judgement, the proposal would have a harmful effect on the significance of the non-designated heritage assets within and adjacent to the appeal site.

Overall Planning Balance

60. In addition to the less than substantial harm in relation to the designated heritage assets and the harm I have identified in relation to the non-designated heritage assets, for the above reasons I have found conflict with Policies DPS2, GBR2, TRA1 DES2, DES4 and GBR2 of the District Plan and HT1 and HHD6 of the Neighbourhood Plan in relation to the location of the appeal site and the impact on the form and character of this part of Church Lane. Although there would be a conflict with the development plan in relation to the location of the appeal site in relation to services and facilities, the amount of traffic generation from one property would be limited. However, the proposal would be harmful also to the character of the area given the lack of nearby development along the western side of Church Lane.
61. Taking all of the above into the overall planning balance, the proposed development would conflict with the development plan as a whole. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan.

Conclusion

62. For the reasons given above, and having had regard to all matters raised, the appeal should be dismissed.

R Norman

INSPECTOR



Appeal Decision

Site visit made on 23 September 2024

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2024

Appeal Ref: APP/J1915/D/24/3346206

29 Bishops Road, Tewin, Hertfordshire AL6 0NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Simon Eden against the decision of East Hertfordshire District Council.
 - The application reference is 3/24/0377/HH.
 - The development proposed is rear ground floor extension and first floor extension over existing ground floor area; front extension to form double gable; demolition of detached garage to form integral garage; alterations to roof and installation of two rear dormer windows.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm to the Green Belt; the effect on the character and appearance of the area; and whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The proposal represents an extension to a dwelling within the Green Belt. It therefore falls to be considered with regard to policy GBR1 of the East Herts District Plan 2018 (LP). This advises that such applications will be considered in line with the provisions of the National Planning Policy Framework.

Whether inappropriate development

4. The *National Planning Policy Framework 2023* advises that the construction of new buildings should be considered as inappropriate in the Green Belt. It sets out exceptions to this position in paragraph 154c which accepts that the extension or alteration of a building would not be inappropriate provided that it does not result in disproportionate additions over and above the size of the original building.
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5. The appellant and local residents have referred to a 50% increase in both floor space and volume with regard to what constitutes a disproportionate addition. The *Framework* does not specify a figure as to what represents disproportionate additions or how it should be calculated. I have found no basis for the 50% figure within any provided adopted local policy. This figure cannot therefore be afforded any weight.
6. The *Framework* defines original building as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Very little definitive evidence has been provided but it has been suggested that the property was built in 1960.
7. The council calculate that the original building had a floor area of 142m² whilst the proposal would have a floor area of 173m², an increase of 121.7%. The appellant advises that the existing property has a ground floor area of 108.48m² with the garage being a further 15.49m², giving a total of 123.97m²; and the proposed ground floor extension would have a floor area of 53.77m². The appellant suggests that the council's figures are wrongly based on a conclusion that the rear ground floor element was not original to the property.
8. Neighbouring residents suggest that the property was extended to the rear in 1976 and make reference to planning application 3/76/0455. The appellant suggests that this application related to a side extension that was not built. The council's report simply refers to that application as an extension. No other information is provided. From my visit, it appeared that the brickwork of the rear element is an exact match with the main part of the house. It does have a straight brickwork joint in the south facing side elevation where it meets the two storey element, suggesting that it was built separately. However, the evidence is inconclusive.
9. The proposal includes considerable alterations to both the first floor and the roof form of the property. In these circumstances, it is not appropriate to rely only on ground floor footprint comparisons. Reliance on overall footprint calculations, as suggest by the council, would also represent a limited approach to the necessary assessment. In the absence of any local policy guidance and given the nature of the changes proposed, it is important to consider the impact on openness with regard to the overall change in scale of development. Whilst overall floor area calculations are of some assistance, comparative volume calculations would perhaps have been more instructive, in these particular circumstances.
10. It is however clear that the roof form of the dwelling would be substantially increased both in terms of the width of the highest part of the roof and its overall depth. The second, full height, front gable would add to this increase in scale as would the first floor additions to the rear and side. The new single storey rear extension would add a further substantial addition. Overall, the original form of the dwelling would be lost and subsumed into a substantially greater scale of building. These changes, even if the flat roof element were considered to be original, would result in disproportionate additions over and above the size of the original building.

11. The proposal would therefore reduce the openness of the Green Belt and represent inappropriate development. The *Framework* is clear that substantial weight should be given to any harm to the Green Belt.

Character and appearance

12. The existing property has a distinctive appearance and sits comfortably within its existing setting. The space around it, is important in this low density environment. The increase in scale, particularly the substantially increased bulk and width of the upper elements, would result in the building being more dominant and strident in appearance; and relatively cramped in its setting.
13. The existing house has a distinctive roof form and pleasing proportions which are complemented by the single front gable, overhanging eaves and chimneys. The proposed design of the frontage would be particularly weak with the positive design features lost and the new built elements and fenestration, offering little design quality or unity. The proposal would not represent a high standard of design and would detract from the character and appearance of the area.
14. The proposal would conflict with LP policies HOU11 and DES4(I) as it would not be of a size, scale, mass, form or design that would be appropriate to the character, appearance and setting of the existing dwelling; it would not appear as a subservient addition to the dwelling; and it would not be of a high standard of design that would reflect and promote local distinctiveness.

Other considerations and conclusions

15. The *Framework* is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
16. The appellant has made reference to other considerations. These generally relate to the view that openness and the objectives of the Green Belt would not be harmed and that the proposal would have a satisfactory appearance. Whilst I disagree with this assessment, I am satisfied that the proposal would have only a limited impact on neighbouring residents with regard to privacy and outlook. It would also result in considerable investment with improvements to living conditions and the quality of the building fabric. Other improvements to landscaping and biodiversity could also be required by conditions.
17. In conclusion, having considered the matters put forward, I am not satisfied that the harm to the Green Belt by reason of inappropriateness, would be clearly outweighed by other considerations. Very special circumstances do not therefore exist to justify the proposal. The quality of the design and the harm to the character and appearance of the area add to this concern. I therefore dismiss the appeal.

Peter Eggleton
INSPECTOR



Appeal Decision

Site visit made on 10 September 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal Ref: APP/J1915/W/24/3336977

38 North Street, Bishop's Stortford, CM23 2LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Leslie Paul against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0239/FUL.
 - The development proposed is roof extension & alterations to create a second floor comprising 2 x one bedroom flats, part change of use of ground and first floor from class E (shop) to C3 (residential), two storey rear extension including new bin store and new entrance door to south elevation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed roof extension on the character and appearance of the existing building, streetscene and the Bishop's Stortford Conservation Area; and ii) the standard of amenity for the future occupiers of the proposed residential units.

Reasons

3. The site is occupied by a part one, part two storey building on the corner of North Street and Water Lane within the town centre and the Bishop's Stortford Conservation Area. It is also located in a Primary Shopping area and the Secondary Shopping Frontage, and falls within the Neighbourhood Plan Area for Silverleys and Meads Wards.

The effect on the character and appearance of the existing building, streetscene and the Bishop's Stortford Conservation Area

4. Since the site is situated within the Bishop's Stortford Conservation Area, there is a statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that development proposals preserve or enhance the character or appearance of the conservation area. The appeal building is referred to in the Bishop's Stortford Conservation Area Appraisal, wherein it states "*No. 38 North Street, Edwards Interiors. 19th century single storey shop of painted brickwork, pilasters with decorative capitals supporting parapet. It is important that such architectural detailing is preserved and retained. Formal protection is provided by existing planning controls.*"

5. The policies of East Herts District Plan that are of particular relevance are HA2 'Non-Designated Heritage Assets' and HA4 'Conservation Areas'. Policy HA2 essentially requires preservation and enhancement of the historic environment and that proposals that lead to harm to a designated heritage asset will not be permitted unless public benefits outweigh the harm. Policy HA4 states that *"New development, extensions and alterations to existing buildings in Conservation Areas will be permitted provided that they preserve or enhance the special interest, character and appearance of the area"*, subject to certain expectations.
6. A material consideration of importance is the National Planning Policy Framework (NPPF), the latest edition of which was published in December 2023. Paragraphs 205 – 214 are relevant, particularly paragraphs 205 – 209. The last of these states: *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset"*.
7. The appeal building, No.38 North Street, is a non-designated heritage asset (NDHA), occupying a prominent position within the conservation area. Whilst unlisted, it contains a good deal of architectural detail. The front is single storey, the style is C19 commercial neoclassical and the structure wraps around the corner with Water Lane. The construction is in brick, and each bay of the frontage to North Road is framed by stucco dressings – a panelled plinth, fluted composite pilasters and an entablature above, with cornice, blocking course and coping. The large plate glass windows are vertically proportioned, with a large pane below and three tall windows above the horizontal transom. Above that are the hipped roofs in slate, with terracotta ridge tiles.
8. The single storey elevation to North Street, and the chamfered corner to Water Lane, together with the 2-storey remaining element of the site on Water Lane, would remain largely unaltered below their parapets. Behind these parapets, these 2 elements of the building currently have separate hipped slated roofs, little of which is seen from ground level. The principle visual change in the appeal proposal is the replacement of the 2 hipped roofs with single 'mansard' roof.
9. This roof would have, on the 2 street frontages, sloping sides topped for the majority of its area by a flat roof. The sloping elements on the west and south elevations would be covered in natural slates reclaimed from the existing roof. There would be a new lead dormer with painted timber windows set above the junction of the single and 2-storey elements on Water Lane, and a slightly higher mansard/hip-roof element, a little to the east, running back from the Water Lane frontage.
10. The other elevations, the returns to the north from Water Lane and the return from North Street, would be hidden from the public domain by adjoining buildings. These would be the least satisfactory parts of the design, incorporating uPVC windows and dormers. But since they would be hidden from view, and since this is not a listed building, I consider that they would have a neutral effect on the character or appearance of the conservation area.

11. At the present time the 2 roof elements of the appeal property play a very minor part in the appearance of the building, unlike the 2 chimneys, particularly the northern one that is such a feature. That would not be the case with the proposed development. The top of the mansard along the front would be noticeably higher and would wrap around the corner almost to the top of the southern chimney. This would mean that the proposed roof would be more prominent, especially from the west on North Street and in the diagonal view from the south-west across the entry to Water Lane.
12. Whilst North Street is dominated by 2 and 3 storey buildings, and the neighbour of the appeal building to the north is of 2-storeys by virtue of the falling ground levels, the attractive and seemingly unaltered façade of the appeal property is very much that of a single storey building with its parapet and low hipped roof behind. The proposed changes to the appearance on North Street and as the building turns the corner into Water Lane, would be visually intrusive, and damaging to the character and appearance of this part of the conservation area. Whilst No.38 is a NDHA, without having the importance of a listed building, I consider that it is of considerable visual significance at the northern entrance to North Street, as it rises from Hadham Road. There would also be an impact on the setting of the listed building at Nos.31-34 North Street.
13. I therefore conclude that proposal would be harmful to the significance of the NDHA and the conservation area. In reaching this conclusion I have noted the reference by the appellant to the grant of planning permission by the council for extensions and alterations to create additional residential flats at No.42 North Street, just a short distance to the north. I have viewed the 'Existing' and 'Proposed' plans, and therefore am able to judge the changes to that building. I have also noted the further reference to a proposal at No.40a North Street. As far as No.42 is concerned, it appears to me that there are considerable differences between that development and the appeal proposal. I do not regard the permission that the council has given as any justification for coming to a different conclusion to the one that I have reached in this case.

The standard of amenity for the future occupiers of the proposed residential units

14. The objection by the council under this issue relates to the floorspace of proposed flat 2. Policy DES4(f) of the District Plan requires that all new residential units have rooms that are of appropriate size and dimensions. The Technical Housing Standards (Nationally Described Space Standards) (2015) set out the minimum space standards for new residential properties.
15. The standards require that one bedroom properties provided over one floor should measure at least 50 m² in internal floor area when having a double room/twin bedroom, with that bedroom having a floor area of at least 11.5m². Because the submitted plans (drawing No. 001-09 Rev E) showed Flat 2 as having a floor area of 44 m² and a bedroom of 12.7 m², it counted as a 2 person double bedroom. Therefore the 'at least 50 m² in internal floor area' was not met. The appeal documents included a drawing No. 001-09 Rev F which showed Flat 2 having a floor area of 44 m² and bedroom of 11.3 m², thereby meeting the floor space requirements.

16. However, the council's refusal notice did not list drawing No. 001-09 Rev F, and this was not an application plan. Whilst the Rev. F drawing appears to show a satisfactory scheme in respect of issue 2, the application drawing did not show a scheme that met the standards. Nevertheless, had I found the proposal acceptable on the first issue, it could have asked the council for its views and then it might have been possible to take the Rev F drawing into account.
17. In the circumstances of this case, I must find that the application fails on the second issue. The proposed development would therefore fail to comply with policy DES4 of the District Plan which seeks to ensure that all internal rooms are of an appropriate size and dimension so that the intended function of each room can be satisfactorily achieved.

Conclusions

18. I have taken account of all the matters raised and carefully read the submitted Heritage Impact Assessment. Whilst there is much in that document that I can agree with, it will be clear that I have reached a different conclusion on the first issue. That conclusion is that the proposed changes to the appearance on North Street and as the building turns the corner into Water Lane, would be visually intrusive, and damaging to the character and appearance of the existing building, streetscene and the Bishop's Stortford Conservation Area. I judge this harm to the heritage assets concerned as being less than substantial.
19. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (NPPF paragraph 208). The public benefits of the proposal are the creation of 2 flats, and although it has not been raised, possibly securing a viable optimal use. The matter of the 5 year housing land supply has been mentioned, but that is not convincing in bringing into effect the balance required in NPPF paragraph 11 d). Even if the generality of 11 d) were in play, 2 additional small dwellings would not outweigh "*the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*" which include the policies relating to designated heritage assets. In this case, the harm outweighs the public benefits.
20. The proposal is therefore contrary to Policies DES4, HA2 and HA4 of the East Herts District Plan 2018 and those of the NPPF that have been referred to.
21. In addition, on the basis of the drawings supporting the appeal proposal at application stage, I find that the proposed development would fail to comply with policy DES4 in that all internal rooms would not be of an appropriate size and dimension, as required by that policy.
22. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR



Appeal Decision

Site visit made on 25 September 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/J1915/W/24/3336444

Waterfront House, Station Road, Bishops Stortford, Hertfordshire CM23 3BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr W Thomas against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1149/FUL.
 - The development proposed is demolition of existing two storey office building and erection of a new four storey residential block consisting of 4 one bedroom flats, 4 two bedroom flats and 1 three bedroom flat - resubmission.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr W Thomas against East Hertfordshire District Council. This application is the subject of a separate decision.

Procedural Matters

3. The description of development in the above banner heading has been taken from the original application form. The decision notice does however include first floor and second floor rear facing balconies and third floor terrace. I have determined the appeal accordingly.
4. The Council has confirmed that following the determination of the application, a new five-year housing land supply position statement has been published which confirms that the Council is able to demonstrate a housing land supply in excess of five years. On this basis and without any compelling evidence to the contrary, paragraph 11 d) of the National Planning Policy Framework (the Framework) is not engaged in the determination of the current appeal.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the character and appearance of the site and surrounding area, including whether it would preserve or enhance the character or appearance of the Bishop's Stortford Conservation Area (CA); and
 - Whether the proposed development would be suitably located having regard to its location to the river and the risk of flooding.

Reasons

Character and appearance

6. The appeal site relates to an existing two storey office building which sits next to the river Stort. It is located behind the retail units which front onto Station Road with access provided via the narrow passage to the rear of the retail units. Although the site is within a back-land position with no road frontage, it is prominently located by being clearly visible from the bridge on Station Road to the north and from the river path which runs alongside the site to the east.
7. The site lies within the CA and I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I have had regard to paragraph 205 of the Framework which explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
8. The CA is noted for its large prosperous market town which continues to evolve but at the same time maintains its medieval heritage. The Bishops' Stortford Conservation Area Appraisal and Management Plan, 2014 (CAAMP) explains that the CA generally has a diverse and high-quality built environment with substantial numbers of worthy buildings. However, there are several sites that detract and one of these which is particularly disruptive is the Mill site whose tall buildings and silos dominate many views and much of the town. It is recognised that the setting of the site and the immediate vicinity within the Conservation Area could do with some improvements.
9. The proposed development seeks planning consent for the demolition of an existing two storey office building, and for the erection of nine flats contained in a four-storey building on this site.
10. The site is set down at a lower level than Station Road and the shop units to the immediate north of the site are two storeys, but because of the change in levels they are only single storey fronting the highway. The buildings either side of the access are two storeys in height on Station Road. To the south is Nicholls Lodge a flatted scheme which ranges from two to four storeys although the two storey elements are adjacent to the appeal site. On the other side of the river are a number of taller buildings with a number of other larger buildings evident within the wider area. Based on my observations onsite, the existing building is however read alongside those immediately to the north and south of the site.
11. The proposed development would replace the existing building with a four storey building almost entirely spanning the width of the site being close to the two-storey shops on Station Road. The overall height despite the top floor being setback on all sides from the footprint of the main building along with its overall scale would dominate the modestly sized shops appearing as an unsympathetic addition to its surroundings. It would dominate the view from the River Stort and adjoining path, and views looking south from the bridge at Station Road. The flat roof design and elevational details would further emphasise its impact by failing to complement the character of the area which would be overbearing when read alongside its adjoining buildings to the north and south. The footprint of built development would increase to the extent of

appearing cramped, with very little space retained to the side boundaries in particular with limited scope to undertake any meaningful soft landscaping as part of the development.

12. I acknowledge the appellants' claims regarding the site's context lying within an area that the CAAMP describes as being particularly in need of some improvements. This would not however alter my findings as the proposed development would still be out of context in this particular location and would not improve the built environment. A lack of objection from the Town Council would also not mean that the development would not be harmful and thus would not alter my findings.
13. For the reasons given above, I conclude that the development would unacceptably harm the character and appearance of the site and surrounding area and thus would fail to preserve the character or appearance of the CA. Given the nature of the proposals, the harm is localised and is therefore less than substantial within the meaning of the Framework. Paragraph 208 of the Framework explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
14. The benefits associated with the scheme include the provision of nine dwellings added to the local housing stock in a highly sustainable location. There would be employment created during the construction of the building, along with the likely purchasing of building materials locally. Given the relatively small-scale nature of the proposals, the extent to which these matters are beneficial are limited and are insufficient to outweigh the less than substantial harm to the CA that I have identified which I have attached great weight given the CA's conservation advised by the Framework.
15. The proposed development would therefore be contrary to Policies HA1, HA4, DES2, DES4, and HOU2 of the East Herts District Plan, 2018 (EHDP) and Policies HDP1, and HDP2 of the Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley 1st Revision 2021-2033 (BSNP). These policies taken together, amongst other matters, explain that all development proposals, including extensions to existing buildings, must be of a high standard of design and layout to reflect and promote local distinctiveness. Development proposals should also preserve and where appropriate enhance the historic environment of East Herts.
16. For the same reasons, the proposed development would also be contrary to guidance contained in the Framework relating to conserving and enhancing the historic environment.

Flood risk

17. The appeal site is located in flood zone 2 with a very small section of the site being within zone 3 although I note the appellants claims that this element appears to remain within the banks of the River Stort and does not encroach into the site. Nonetheless, the Planning Practice Guidance (PPG) explains that for areas at risk of river and sea flooding, this is principally land within flood zones 2 and 3.

18. Paragraph 165 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The PPG requires a sequential test for major and non-major development if any proposed building, access and escape route, land-raising or other vulnerable element will be in flood zone 2 or 3. It goes further to explain that a development is not exempt from the sequential test just because a Flood Risk Assessment shows it can be made safe throughout its lifetime without increasing risk elsewhere. A Flood Risk Assessment and SuDS Report has been prepared for the site which also confirms that because of its location, a sequential test will be required, and this approach is also required by Policy WAT1 of the EHDP.
19. Details about the sequential test and if necessary, exceptions test are included in the PPG. It should show that there are no reasonably available, lower-risk sites that are suitable for the proposed development. Based on the evidence before me, no such exercise has been undertaken and thus the proposed development fails to demonstrate that other sites at lower risk of flooding are not reasonably available to accommodate the development. The development would therefore be contrary to national and local policy.
20. I am aware of the planning history associated with the site and the previous reasons for refusal. However, it still remains the case that the requirement for a sequential test is clearly set out and the previous reason for refusal would not mean that a sequential test is not required particularly as the previous reason for refusal was on flood risk grounds referring to Policy WAT1 of the EHDP. This Policy specifically states that the sequential test will be used. The Council also set out that the absence of a sequential test was highlighted by consultees in considering the previous proposal. Even if this consultee did not specifically request a sequential test, it does confirm that this was indeed highlighted as being absent. Based on the evidence before me, I am sufficiently satisfied that the appellant was aware of the requirement in local and national planning policy for a sequential test as part of the appeal application which has not been undertaken.
21. Moreover, the proposed development involves works within 8 metres of a main river and flood defence. It is understood that the Environment Agency require an 8-metre undeveloped buffer zone to allow sufficient access for heavy machinery and vehicular access to allow work to be able to be carried out. This is reflected in Policies WAT1 and WAT3 of the EHDP. The Environment Agency has therefore confirmed that they would unlikely grant a flood risk activity permit for the proposed works due to the lack of access for emergency works. The Environment Agency also highlight that the building may interfere with natural geomorphological processes and could be placed at risk of damage arising from channel migration/erosion.
22. Whilst I note the claims made that the new building would be over the footprint of the existing building and moved away from the river bank and thus would not worsen the existing situation, the proposed development would still be within 8 metres of the main river and flood defence comprising of an increase in built footprint and additional storeys which would increase the load almost directly atop the river bank. The evidence before me does not demonstrate that load bearing / foundations will not compromise the bank

stability which is critical for maintaining an effective flood defence. If the flood defence structure were to fail, this could increase flood risk both on and offsite. There may have been a lack of objection from the Lead Local Flood Authority albeit with recommended conditions although they do still explain that the proposal has the potential for significant flood risk and advice from the Environment Agency should be sought.

23. For the above reasons, I conclude that the proposed development would not be suitably located having regard to its location to the river and the risk of flooding. The lack of a sequential test and if necessary, exceptions test means there can be no confidence that other sites at lower risk of flooding are not reasonably available to accommodate the development. The proposed development would therefore conflict with Policies WAT1 and WAT3 of the EHDP and Policy GIP8 of the BSNP which together, amongst other matters, requires development proposals to neither increase the likelihood or intensity of any form of flooding, nor increase the risk to people, property, crops or livestock from such events, both on site and to neighbouring land or further downstream. For the same reasons, the proposed development would also be contrary to guidance contained in the Framework relating to meeting the challenge of climate change, flooding, and coastal change.

Other Matters

24. I note the changes made to the scheme and that the appellant may have overcome a number of the other issues identified. However, I have determined the current appeal based on its own merits and thus such matters would not affect my findings on the above main issues.
25. The building is not listed and is located in the urban area already accommodating built form. The property may also not lend itself to modern business requirements remaining vastly unutilised with no real prospect for future occupation. To this end, measures have been taken to explore employment use without success. Such matters however would also not alter my findings on the above main issues nor be sufficient to weigh in favour of the appeal. The appellant has referred to Class O permitted development rights as constituting a fall-back position although details are very limited on this to explore it further as to whether reliance could be placed on such permitted development rights as a fall-back position. I cannot therefore attribute this any material weight.

Conclusion

26. The proposed development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination including the provisions of the Framework, that would outweigh the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR



Appeal Decision

Site visit made on 24 September 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2024

Appeal Ref: APP/J1915/W/24/3336676

Land to the south-east of The Bury, Bury Green, Little Hadham SG11 2HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Simmonds against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1919/FUL.
 - The development proposed is erection of a new house and the conversion of a curtilage listed outbuilding including inserting new windows and doors, attaching solar panels and a single storey link to new house. Creation of new driveway.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal site is suitable for the proposed development, having regard to local and national policy.

Reasons

3. Policy DPS2 of the District Plan (DP) sets out a development strategy. It seeks to deliver sustainable development in accordance with a hierarchy that directs development to sustainable brownfield sites in the first instance, followed by urban areas, then urban extensions and, lastly, infilling in villages.
4. In support of the development strategy, DP Policies VILL1-VILL3 places villages into three groups. As the appeal site lies in Bury Green, it falls within the definition of a Group 3 Village or settlement as set out in Policy VILL3. Limited infill development is permitted by Policy VILL3 in Group 3 Villages, but only if identified in an adopted Neighbourhood Plan (NP). I have not been directed to any adopted NP and therefore the proposal is not supported by this policy.
5. Bury Green is designated in the DP as a rural area beyond the Green Belt. In such areas, DP Policy GBR2 permits limited infill or the partial or complete redevelopment of previously developed land in sustainable locations, where these forms of development are appropriate to the character, appearance and setting of the site and/or surrounding area and the development is comparable with the character and appearance of the area.
6. The nearest settlements, Bishop's Stortford and Little Hadham, are some distance away from the appeal site and would be accessed, for much of the route, along narrow, unlit rural roads with no footway. The pedestrian and cycle isochrone provided by the appellant shows that the services and facilities in Bishop's Stortford and Little Hadham and the nearest bus stops are all within

walking and cycling distance from the appeal site. Nonetheless, the routes along such rural roads are not attractive particularly during times of darkness or inclement weather, even when taking into consideration the low speed and volume of traffic.

7. The appellant highlights that the local network of public footpaths and bridleways provide routes to the bus stops and both settlements that largely avoid roads. However, I consider that such routes would only be a reasonable option to get to services and facilities during daylight hours and good weather. Furthermore, whilst several bus services stop at the bus stops on Hadham Road and in Little Hadham, there is no evidence before me of their frequency to demonstrate that they would provide a realistic alternative mode of transport. Consequently, it is likely that the future occupants of the dwelling would be reliant upon private vehicle use to meet their basic daily needs.
8. The proposal would not be isolated for the purposes of paragraph 84 of the National Planning Policy Framework (the Framework). Nonetheless, the Framework highlights, at paragraph 83, that to promote sustainable development in rural areas, housing should be located where it will enhance and maintain the vitality of rural communities. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, it sets out, at paragraph 109, that the planning system should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. In view of the accessibility concerns I have identified, the benefits of the proposal, due to the support it would give to services in a nearby settlement, would be limited. In addition, given the small scale of the proposal it would not promote sustainable transport, or walking and cycling.
9. There is no dispute between the parties that the site comprises previously developed land and the Council does not raise concerns that the proposal would adversely affect the character, appearance or setting of the site or surrounding area. Based on the evidence before me, I have no reason to disagree with such conclusions. Even so, for the reasons given above, the development is not in a sustainable location. As such the proposal conflicts with DP Policy GBR2.
10. The appellant has drawn my attention to several appeal and planning decisions. The Inspector in the Epping Green case found that the occupants of the proposed dwelling would have reasonable access to local services and facilities. In the case of no. 1 Sacombe Green Farm, the Inspector considered that the proposed development would support services in a village nearby. In the absence of the full circumstances of the Fryars Farm Cottage case, I cannot be certain that the journeys to access the nearest service and facilities for the occupants of that proposal would not be shorter, or more attractive, than in respect of the case before me. As such, because the circumstances are seemingly different, none of these decisions suggest that I should allow the proposal before me.
11. Accordingly, I find that the appeal site is not a suitable location for the proposed development. The proposal would therefore conflict with DP Policies DPS2, VILL3, and GBR2 as well as the Framework. It would also conflict with DP Policy TRA1 as a range of sustainable transport options would not be available to the occupants of the proposed development.

Other Matters

12. The appeal site is located within the Bury Green Conservation Area (CA) and there are Grade II listed buildings, The Bury, Barn and Stable at the Bury, and the Croft, nearby. The appeal site is separated from the listed buildings by dense tree planting which would ensure that, even in winter when the deciduous trees are without leaf, the appeal proposal would, at most, only be glimpsed from the listed buildings. Such substantial screen planting, together with the distance between the appeal proposal and the listed buildings, would ensure that it would not materially affect the way that each listed building is experienced. For the same reasons the proposal would not be prominent in views from within the CA and its character and appearance would be preserved.
13. The proposal involves the conversion of a curtilage listed building, a stable block. The Council has not raised concerns regarding the proposed works to the listed building and has confirmed that listed building consent has been granted for such works. Based on the evidence before me I have no reason to disagree with the Council and conclude that the proposal would not preserve the listed building.
14. The appellant contends that, if the appeal is dismissed, this curtilage listed building will fall into disrepair. However, from external inspection and the internal photographs provided, it appears to be in relatively good condition, and there is no detailed survey to indicate otherwise. Consequently, whilst the Planning Practice Guidance confirms that reducing or removing risks to a heritage asset constitutes a public benefit, there is no evidence of a pressing need to secure a new use for the building.
15. The Council states that it now has a five-year housing land supply (5YHLS), which is not disputed by the appellant, demonstrating that current policy is providing enough housing to meet the housing requirements for the area. Therefore, although appreciating that the Framework seeks to boost the supply of housing, I attach limited weight to the provision of a single dwelling as proposed. Benefits to the local economy would also be limited due to the small scale of the scheme.
16. I have had regard to the planning permission granted at Furneux Pelham that the appellant has referred to. However, as the decision was made at a time when the Council could not demonstrate a 5YHLS, the presumption in favour of sustainable development set out at paragraph 11(d) of the Framework applied. As such, the circumstances of that case were markedly different to the one before me, and it therefore carries limited weight in favour of the proposal.
17. There are advantages to the appellant living on the same site as where a poultry hobby is operated, thereby avoiding the need to travel to care for them on a twice daily basis. Nevertheless, this is tempered by the use of the private car for most day-to-day needs of the occupants of this additional dwelling in the rural area. I acknowledge the willingness of the appellant to reduce the number of car parking spaces in the appeal scheme, however there is no evidence before me that demonstrates that this would lead to a material reduction in the number of overall trips to and from the appeal site. Furthermore, whilst provision for electric vehicle charging points could be secured for all parking spaces, it would be impossible to control, by condition,

the type of vehicles that would be used by the occupiers or visitors to the dwelling at this time. Accordingly, I attach limited weight to these benefits.

18. The location of the proposed dwelling would enable care to be given to the appellants parents as they become older and should their health decline. However, no information has been provided to suggest that they currently have any specific medical needs that requires care, or that the appellant could not be accommodated within the existing dwelling to provide such care on-site. Therefore, whilst I am sympathetic to these personal circumstances, and having due regard to the Public Sector Equality Duty, I only attach limited weight to such a benefit.
19. Overall, the benefits of the proposal would not justify development on a site that I find not to be suitable for the proposal, and in conflict with local and national policies.

Conclusion

20. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
21. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR



Appeal Decision

Site visit made on 10 September 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal Ref: APP/J1915/W/24/3340311

5 Highfield Road, Hertford, SG13 8BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr T Infantino against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2242/FUL.
 - The development proposed is the demolition of garage; erection of detached two-storey, five bedroom dwelling; installation of solar panels and air source heat pump and creation of new vehicular access way and parking.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application form for planning permission described the proposed development as 'Detached dwelling'. This was subsequently altered, as shown on the appeal form, to the description used in the banner heading above. This description includes 'five bedroom dwelling'. However, the relevant plan, drawing No.810_321_B, shows 4 bedrooms. A 5 bedroom house could not be built on the basis of approved plans showing just 4 bedrooms, and this anomaly between the description of the development and the plans would be best avoided.
3. I consider that any planning permission on the basis of the submitted plans would require that the description of the development be amended from 'five bedroom' to 'four bedroom'. I assess the appeal proposal on the basis of the plans.

Main Issues

4. The main issues in this case are: i) the effect of the proposed house on the character and appearance of the Hertford Conservation Area; ii) the effect of noise from the proposed Air Source Heat Pump on the amenity of neighbours; and iii) the extent to which the proposal would meet sustainability objectives.

Reasons

The effect of the proposed house on the character and appearance of the Hertford Conservation Area

5. The appeal site lies within a residential area of Hertford, characterised by large 2-storey detached houses within large plots, although there are one or two examples of smaller houses. This eastern end of Highfield Road, especially on the appeal site side, benefits from mature trees and hedges along the frontages.
6. The existing house is set back from the road behind railings set in front of landscaping and the plot contains several mature trees. The neighbouring building to the north-east, on the other side of the appeal site, is a substantial pair of semi-detached houses. The house that is adjacent to the appeal site has a single-storey side extension, alongside which is a wide gravelled drive which lends some additional space alongside the proposed development.
7. The site is within the Hertford Conservation Area, and therefore there is a statutory duty under Section 72 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that development proposals preserve or enhance the character or appearance of the conservation area. This is echoed by Policy HA4 'Conservation Areas' of the East Herts District Plan 2018. Other local plan policies of particular relevance are DES4 'Design of Development, HA1 'Designated Heritage Assets', and HA2 'Non-Designated Heritage Assets'. Since these policies are well known to the parties, I need not set out their provisions here. Number 5 Highfield Road is identified as a non-designated heritage asset (NDHA).
8. The proposed dwelling would be set on the site so that its main axis would be at right-angles to the road. The front elevation would feature a 2-storey forward projection under a gable with, in the set-back, a porch under a mono-pitch roof. Above this would be the main 'crown' roof with steep pitches on all sides. The design follows from an analysis of the local materials palette and architectural features in the area. From this analysis there has been a successful combination of features that relate well to dwellings in the immediate locality. These include red brick walls, brown clay plain tiles, and decorative tile hanging in the forward projecting gable. It would remain a modern design, but sufficiently in accord with the local palette.
9. However, the narrow front elevation, due to its orientation being north-south, rather than the established pattern of an east-west layout, would be out of character with the houses in the road. Whilst its footprint would not be small, it would present as a narrow house, somewhat squeezed into the site, and too close to the host dwelling. This would also mean that the view of the important trees and vegetation currently viewed alongside the existing garage and beyond, which are of significance to the local character, would be lost.
10. For these reasons the proposed house would not preserve or enhance the character or appearance of the Hertford Conservation Area, and it would be harmful to the setting of the host dwelling as a NDHA. This would amount to less than substantial harm.
11. As paragraph 208 of the National Planning Policy Framework (NPPF) explains "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (in this case the conservation area), this harm should be weighed against the public benefits of the proposal ... ". The public benefits of the scheme would be the provision of an additional dwelling.

12. The officer's report stated that the council could not demonstrate a 5-year housing land supply – which would lead to consideration of paragraph 11 d) of the NPPF. However, the council's appeal statement asserts that it can now demonstrate a supply of 5.95 years. Accepting this at face value, the situation is that, even if there was a shortfall, a single dwelling would not outweigh the harm to the conservation area and the setting of the NDHA.

The effect of noise from the proposed Air Source Heat Pump on the amenity of neighbours

13. The officer's report simply reports that the air source heat pump (ASHP) exceeds the council's criteria. I have viewed the material referred to in the council's appeal statement. I have not found it useful: I cannot be expected to undertake calculations and have not the data to do so. If a refusal reason is given, it is to be expected that the authority will be able to back it with evidence.
14. The application does not specify the heat pump proposed. If a planning permission were to be given it would be necessary to condition a particular pump or the criteria that defines its performance. I am told that the pump referred to at the time of the application had a sound level of 53dB(A). If this is a maximum figure, it is a reasonably quiet ASHP. Subsequently a Daikin Altherma 3 H HT pump has been put forward, which operates at a noise level of 38 dB(A). I have been provided with a copy of the brochure for this model which I see this has the 'Quietmark', but I also see that it appears to have a maximum sound level (when working at coldest times of the year) of 54dB(A). This is still a quiet pump, as shown by the Quietmark. Without calculations and details of any necessary baffle/visual screen, I cannot be satisfied about the acceptability of this unit (or any other that might be considered) in terms of the amenity of neighbours.

The extent to which the proposal would meet sustainability objectives

15. The appeal application was dated 24 November 2023, but the Energy Statement is dated 9 August 2023. I also note that the previous application for a similar proposal was refused on 6 October 2023. It therefore appears that this statement is not applicable to the appeal proposal. The council also points out that the statement recorded a 'fail' for Criterion 1 of the general compliance requirements in relation to carbon dioxide emissions rate and dwelling fabric energy efficiency. Furthermore, there is no commentary to assist in a full understanding of the findings of the Energy Statement. I also see that on page 8 it is stated at item i) that "This is a refurbishment and extension project and therefore the carbon reductions beyond Approved Document L will be limited due to the reuse of the existing structure". This does not reflect the new build nature of the appeal proposal.
16. In the light of the above, I cannot rely on the submitted Energy Statement to demonstrate the extent to which the proposal would meet sustainability objectives.

Conclusions

17. In light of my reasoning in paragraphs 9 to 12, I conclude that the appeal proposal would not preserve or enhance the character or appearance of the

Hertford Conservation Area, and it would be harmful to the setting of the host dwelling as a NDHA, amounting to less than substantial harm. Furthermore, whilst the council claims that it can now demonstrate a 5 year housing land supply, assuming this is so, a single dwelling would not outweigh the harm to the conservation area and the setting of the NDHA.

18. In respect of the second issue, without calculations of sound levels, the nearest sensitive point, any attenuation through distance etc, and details of any necessary baffle/visual screen, I cannot make a judgement about the acceptability of this unit (or any other that might be considered) in terms of the amenity of neighbours, and therefore this is an additional reason for refusing the grant of planning permission.
19. In respect of meeting sustainability objectives, the documentation provided is not persuasive, and I am not convinced that the proposal would meet sustainability objectives.
20. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR



Appeal Decision

Site visit made on 10 September 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal Ref: APP/J1915/W/24/3340086

Priory Farm, Levenage Lane, Widford, SG12 8RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by A S Clark & Sons against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2283/OUT.
 - The development proposed is the erection of four dwellings and associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of four dwellings and associated landscaping at Priory Farm, Levenage Lane, Widford, SG12 8RA in accordance with the terms of the application, Ref 3/23/2283/OUT, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by A S Clark & Sons against East Hertfordshire District Council and this is the subject of a separate Decision.

Preliminary matter

3. The application was in outline with all matters to be considered later except for access, the details of which are shown on the application plans. There is also an illustrative possible layout shown, to be treated as purely indicative of how the development might take place, other than the access. Matters of appearance, landscaping, layout and scale are reserved for future determination.

Main Issues

4. The main issues in this case are: i) the effect of the proposed development on the character of the site and the rural countryside; and ii) the impact of the proposal on highway safety.

Reasons

5. The site is to the south-east of the village of Widford, located just outside the village boundary within land designated as the Rural Area Beyond the Green Belt. The village of Widford is a category Group 2 Village. The site is occupied by a piece of open countryside/agricultural land located to the south of

Levenage Lane. Levenage Lane is a private track with a public bridleway (Widford 004) to the north of the development site. The appeal site includes part of the access track off of the B180 and this part of the site is located within the Widford Conservation Area. The main part of the site is just beyond the conservation area boundary. In addition, the site is located within an Area of Archaeological Significance.

6. To the north of the appeal site are 3 dwellings fronting Levenage Lane and to the west by the rear gardens of 5 dwellings along the B180/Hunsdon Road and the existing gravel track that runs to the rear of them.

The effect of the proposed development on the character of the site and the rural countryside

7. Policy DPS2 sets a hierarchy for the delivery of sustainable development starting with sustainable brownfield sites, then sites within the urban areas of large settlements such as Bishops Stortford & Hertford, followed by urban extensions and lastly limited development in the villages.
8. Policy GBR2 states that in order to maintain the Rural Area Beyond the Green Belt as a valued countryside resource, certain types of development will be permitted, provided that they are compatible with the character and appearance of the rural area. This includes limited infilling in villages or the partial or complete redevelopment of previously developed land in sustainable locations where they are appropriate to the character and appearance of the rural area.
9. The proposed development would be located on agricultural land. Infill development is not defined in the District Plan or in the National Planning Policy Framework (NPPF) and requires a judgement on the characteristics of the site in each case. However, a common and often used interpretation of infilling is the development of a small gap in an otherwise built-up frontage. Whilst the proposed new dwellings would be located to the south and east of existing properties, they would not infill a gap between buildings, and as such the proposed development is contrary to Policy GBR2 of the District Plan.
10. The planning officer's report notes that the site is located just outside the village boundary but would be within walking distance to the village school, the village hall, a bus stop providing a regular bus service to Bishop's Stortford, Ware and Hertford, Monday - Saturday. It also states that, whilst Widford does not have many key facilities such as a village shop or doctors' surgery, these could be reached by public transport. Whilst the site is located within the Rural area Beyond the Green Belt, where Policy GBR2 applies, it is considered to be sustainably located in accordance with Policy DPS2 and TRA1 of the District Plan.
11. In addition, I note that the centre of the village of Hunsdon is about 1 mile away to the south of the site. Hunsdon is identified as a Group 1 Village in Policy Vill1. The Local Plan at paragraph 10.3.2 recognises that "*Group 1 Villages are the most sustainable villages in the District. In these villages development for housing, employment, leisure, recreation and community facilities will be permitted. Growth in these areas will help to sustain existing shops, services and facilities, deliver affordable housing, provide local job opportunities and deliver community benefits.*" Hunsdon has a number of

- services and facilities which include Hunsdon J M I School, The Crown pub, The Fox & Hounds restaurant and pub, village convenience store & post office and Saint Francis Chapel.
12. Since the site is within a reasonably sustainable location, paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. This is all the more relevant in this case since the appellant seeks support from sub-paragraph d). NPPF paragraph 11 d) is well known to both parties, so that I need not set out the text in any detail. However, I will mention that 11 d) i. refers to situations where areas or assets of particular importance provide a clear reason for refusal. I have noted that the main part of the site is just outside the Widford Conservation Area boundary (paragraph 5 above). Conservation areas are a designated heritage asset: in this case I do not consider that the appeal proposal would have anything higher than a neutral effect on the conservation area.
 13. The officer's report on the appeal application notes that a recent appeal decision concluded that the council cannot currently demonstrate a five year supply of deliverable housing sites (5YHLS). The consequence of not having a 5YHLS is that paragraph 11(d) of the NPPF is engaged in the decision-making process. However, in the officer's report conclusion, the benefits of the scheme were considered, but it was judged that the harm identified of an urbanising impact of encroachment into the rural countryside would significantly and demonstrably outweigh the benefits of the proposed 4 new residential units.
 14. Subsequently, in the council's statement of case, reference is made to the Council's East Herts Five Year Land Supply Position Statement March 2024 which sets out its latest position on the Five-Year Housing Land Supply. It explains the Council's five-year housing land supply requirement and identifies the sites that form the land supply. On the basis of the information and evidence included within this document, it is stated that the council is able to demonstrate a land supply position of 5.57 years against the housing requirement of 5,560 dwellings across the five-year period 2023-2028.
 15. A Position Statement Addendum was then published in April 2024, in consequence of the Government publishing new affordability ratios on the 25 March 2024. It is stated that this addendum establishes that the housing requirement is for 5,205 dwellings across the five-year period 2023-2028. The identified supply of deliverable housing sites is 6,189 dwellings demonstrating a five-year land supply position of 5.95 years against the housing requirement.
 16. Challenging the council's position, the appellant has supplied a recent appeal decision reference APP/J1915/W/24/3340497 concerning land east of the A10, Buntingford, in this district. The decision is dated 22 August and followed an inquiry held on 16-18, 23-24 and 30 July 2024. The housing requirement and deliverable land supply was a main issue in the inquiry. The Inspector's conclusion on this issue included the following: "*The Council has a 4.20 – 4.49 year housing land supply. Whether using the approach favoured by the Council or that favoured by the appellant, the Council cannot demonstrate a 5 year housing land supply and so the NPPF deems the policies which are most important for determining the planning application to be out of date*".
 17. A written representations appeal is not an appropriate forum to determine matters that require evidence to be subject of close scrutiny through cross

- examination. The dates of this appeal inquiry postdate the publication of the council's East Herts Five Year Land Supply Position Statement March 2024 and Position Statement Addendum referred to in paragraph 14 and 15 above. It is therefore reasonable to assume that these documents and their contents were thoroughly examined and taken into account by that Inspector. On this basis I am satisfied that the council cannot demonstrate a 5-year housing land supply, and therefore the provisions of NPPF paragraph 11 d) are engaged.
18. Drawing together the various matters discussed above, it is clear that the appeal site is outside the village boundary of Widford and therefore there is conflict with Policies DPS2, and GBR2. My site visit enabled me to see that it would extend the adjacent development onto land that is clearly agricultural and countryside landscape. These matters weigh against the proposal, and justify refusal unless material considerations indicate otherwise. However, the harm to the countryside is limited, since the appeal site is just outside the village boundary and is located behind and next to existing housing development; further, it is acknowledged that the site is a sustainable location. Thus I regard the harm as limited.
 19. An important material consideration is the policies of the NPPF, and in particular, paragraph 11, and its sub-paragraph d) which is engaged by the council's lack of a Five Year Land Supply. In the present circumstances, planning permission should be granted unless the adverse impacts I have identified would significantly outweigh the benefits when assessed against the policies of the NPPF taken as a whole.
 20. There are a number of benefits that can be identified, beginning with a modest number of market houses. These houses have a social benefit, and would additionally bring short term economic benefit through the construction process. In addition, the location of the site is particularly favourable to support the aim of NPPF paragraph 83. This states: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services Where there are groups of smaller settlements, development in one village may support services in a village nearby"*.
 21. It seems to me that the penultimate sentence above, whilst referring to identifying sites in planning policies, it can be applicable to decisions on planning applications. In this case the site is adjacent to Widford, a Group 2 village and under a mile from Hunsdon which is identified as a Group 1 Village. Between them they offer a number of services and facilities. In my experience service providers and community facilities in villages such as these not infrequently struggle to attract enough custom or participation to prosper.
 22. In addition there would be an environmental benefit from the proposed landscaping, which I am told goes beyond what is required by statutory Biodiversity Net Gain requirements.
 23. I have found that the harm arising from the appeal development would be limited. That harm would not significantly and demonstrably outweigh the benefits of the proposal which are of moderate weight. The NPPF therefore supports the grant of planning permission.

The impact of the proposal on highway safety.

24. The Highway Authority objected to the proposed development for the reasons set out in the officer's report. The refusal reason given was that insufficient information was submitted within the application to fully assess the impact of the proposed development on highway safety, contrary to Policy TRA2 of the East Herts District Plan 2018.
25. The appellant has submitted a Transport Statement (TS), dated February 2024, as part of its appeal documentation, as well as an amended plan reference 223390-PR-001 revision C. The TS and the plan sought to respond to the concerns of the highway authority, and thus make good the shortcomings of the application in this regard. It appears to be agreed by the council that the TS and the revised plan meet the highways concerns in respect of a set back of the access road by 10m from the bridleway; swept path drawings for the access junction with the bridleway and surface materials; and that it has been demonstrated that the appellant has vehicular access rights over the bridleway. At least, the council's appeal statement does not rebut the content of the TS or, in respect of the highway issue, criticise the revised drawing.
26. Nevertheless, the council objects to the revised plan and the TS on the basis that they amount to significant changes to the scheme which were not considered as part of the assessment on the application, and I should not consider them in reaching my decision on the appeal. The basis of this objection is that the amendments are significant changes in that four carports have been removed from the scheme and two of the dwellings would now be detached. In making this objection, the council notes that the appellant has sent letters to all of the consultees on the original application and neighbours to ensure that their views and comments on the revisions may be made, and notifying them of the appeal.
27. Since the application was in outline with matters of appearance, landscaping, layout and scale reserved for future determination, and the proposed development was for the erection of four dwellings and associated landscaping, with out any specification as to the form of dwelling, and no mention of car ports, the changes on the revised plan in these respects are purely indicative, and would not form the substance of any planning permission.
28. Furthermore, the changes that have been made, which relate to highway matters, are technical and, although the parish council raised an objection that included concern that the junction with the B180 would be dangerous with inadequate sight lines to ensure public safety, this again is a technical matter. It is also difficult to see how an appellant can seek to rebut a refusal such as that given in the second reason, without submitting material demonstrating that a scheme can be shown to be safe following minor changes. In this case the change is mainly moving the internal access road away from the bridleway by 10m, and thus further from its junction with the bridleway, so that emerging vehicles would approach at right-angles, providing better vision onto this public right of way.

29. Consideration of the acceptability of changes to a scheme at appeal stage must have regard to the Wheatcroft Principles¹. In this case the revision did not make the scheme "in substance not that which was applied for"; there was a reasonable amount of consultation by the appellant, and I cannot see that third party's rights have been overridden. I have therefore taken the revised plan, drawing No. 223390-PR-001 revision C, and the TS into account in reaching my decision.
30. In the light of this, I am satisfied that the additional documentation in the form of the TS and the revised plan have overcome the second reason for refusal: there is sufficient information before me to fully assess the impact of the proposed development on highway safety. The appeal proposal conforms to Policy TRA2 of the East Herts District Plan 2018.

Conclusions

31. Having considered all the matters raised, for the reasons that I have set out above, the appeal will be allowed, subject to the conditions that I deal with below.

Conditions

32. The council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the text.
33. The standard conditions 1, 2 and 3 are required defining the remaining reserved matters to be approved and requiring their submission and approval; a time limit for that submission; and a time limit for the commencement of the development. Condition 4 requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt as to the development permitted. Condition 5 is necessary to ensure that the development is properly related to the levels of adjoining development in the interests of neighbour amenity and good design.
34. Condition 6 is required to preserve heritage asserts of archaeological significance. Condition 7 is to minimise and prevent pollution of the land and the water environment and in order to protect human health and the environment more generally. Condition 8 is in the interests of the management of surface water flows, for the avoidance of flooding. Condition 9 is to assist with the adaptation to climate change, reduce carbon emissions and for the efficient use water resources. Conditions 10 and 11 are in the interests of amenity and good design. Condition 12 is to improve the biodiversity value of the site and surrounding environment and to achieve a biodiversity net-gain.
35. Conditions 13 and 14 are in the interests of highway safety. Condition 15 is to ensure personal safety and satisfactory appearance. Condition 16 is in the interests of amenity and good design and for the avoidance of wasting resources. Conditions 17, 18 and 19 are to promote the use of sustainable

¹ Bernard Wheatcroft Ltd. v Secretary of State for the Environment and. Another Queen's Bench Division. 24 October 1980. (1982) 43 P. & C.R. 233.

transport modes and the efficient use of water. Condition 20 is in order to ensure the optional requirement of the Building Regulations applies so that new homes are readily accessible and adaptable to meet the changing needs of occupants.

36. Condition 21 is in order to ensure an adequate level of air quality for residents of the new dwellings. Conditions 22 and 23 are to ensure the provision, establishment and maintenance of a good standard of landscaping in the interests of providing a satisfactory residential environment. Condition 24 is to protect the residential amenity of occupants of nearby properties from noise disturbance during the construction. Condition 25 is in the interests of amenity and to prevent the deposit of mud or other extraneous material on the highway during the construction period in the interests of highway safety. Condition 26 is in the interest of preserving the character of the rural area.

37. Conditions 6 and 7 are pre-commencement conditions. Condition 6 is necessarily in that form because the investigation and any scheme of archaeological work must be done before disturbance of the ground. Condition 7 is necessary as again contamination needs to be investigated and any remedial work undertaken before disturbance of that contamination.

38. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, if the Inspector is minded to grant planning permission subject to pre-commencement condition(s) he/she may only do so with the written agreement of the appellant to the terms of the condition(s). In this case the appellant's agent has clearly stated on the appellant's behalf that the conditions are acceptable.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing No. 223390-PR-001 revision C.
- 5) The details to be submitted at reserved matters stage shall include detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.
- 7) The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 1. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 2. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 3. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A

clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.

4. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.

5. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted to and approved by the Local Planning Authority prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

- 8) Prior to any above ground works commencing a detailed scheme for the on-site storage and regulated discharge of surface water run-off and a scheme for the disposal of foul water shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details before the development is first occupied.
- 9) Prior to the erection of above ground superstructure details of the design, materials and construction of the dwelling to demonstrate how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in winter to reduce energy demand and reduces water demand. The development shall thereafter be implemented in accordance with the approved details.
- 10) Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
- 11) Details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.
- 12) The dwelling hereby approved shall not progress beyond foundation stage until details of habitat boxes/structures to include 1 no. integrated swift brick and one pair of house martin cups per dwelling and other biodiversity enhancement measures to be installed have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the dwellings and maintained throughout the lifetime of the development, unless otherwise agreed in writing with the Local Planning Authority.
- 13) The dwellings hereby permitted shall not be occupied until the parking spaces and vehicle manoeuvring areas clear of the public highway illustrated on the approved plans have been constructed and made available for use.

- 14) The dwelling shall not be occupied until the visibility splay has been provided in accordance with the approved plans. The splay shall thereafter be maintained free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway/bridleway.
- 15) The hard surfaced areas of the development, including roads, pavements, driveways and car parking areas shall be surfaced in accordance with details submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be implemented in accordance with the approved details prior to first occupation or use of the development hereby approved.
- 16) Facilities for the storage and removal of refuse and materials for recycling from the site shall be provided, in accordance with details having been submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details prior to first occupation of the development hereby approved.
- 17) One electric vehicle charging point per dwelling (dwelling with dedicated parking) shall be provided prior to the first occupation of each dwelling.
- 18) Details of any cycle parking facilities proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.
- 19) Prior to the first occupation of the development measures shall be incorporated within the development to ensure that a water efficiency standard of 110 litres (or less) per person per day is achieved.
- 20) The dwellings shall be constructed so that the requirements of paragraph M4 (2)1 of schedule 1 to the Building Regulations 2010 (category 2 - accessible and adaptable dwellings) are satisfied.
- 21) Any gas-fired boiler shall meet a minimum standard of <40 mgNO_x/kWh.
- 22) No development above slab level shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 23) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 24) The hours of operation for construction and/or demolition works shall be restricted to 08:00-18:00 Monday to Friday and 08:00-13:00 on a Saturday. No work to take place on Sundays or Public Holidays without the prior written agreement of the Local Planning Authority.

- 25) Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway, in particular (but without prejudice to the foregoing) this shall include efficient means for cleaning the wheels of all lorries leaving the site which shall be maintained and employed at all times during construction.
- 26) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement or other alteration of the dwellinghouse as described in Schedule 2, Part 1, Classes A,B,C,D and E of the Order shall not be undertaken within the curtilage of the dwellinghouses hereby permitted without the prior written permission of the Local Planning Authority.

End of Schedule



Costs Decision

Site visit made on 10 September 2024

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Costs application in relation to Appeal Ref: APP/J1915/W/24/3340086 Priory Farm, Levenage Lane, Widford, SG12 8RA

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by A S Clark & Sons for a partial award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of four dwellings and associated landscaping.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

The Application

3. The Planning Officer (PO) refused to accept a revised Site Plan and amended Transport Statement to address Hertfordshire County Council Highways holding objection. This is contrary to Paragraph 38 in the National Planning Policy Framework (NPPF) which states "*Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible*".
4. The Appellant is seeking an award of costs in respect of the refusal to accept additional documentation that may have negated one of the refusal reasons.
5. The Planning Practice Guidance (PPG) details examples of unreasonable behaviour which may result in an award of costs, this includes of relevance 'lack of co-operation with the other party'. Paragraph: 047 Reference ID: 16-047-201403066

The Rebuttal

6. On 21 December 2023, the agent advised that they would be submitting further highways information in light of the comments made by The Highway

Authority. The PO advised that the application as a whole was still being assessed and could not confirm whether amendments would be acceptable/appropriate. The agent agreed to this. On the 25 January 2024, the PO emailed that there was an in-principal objection, the recommendation was for refusal and the proposed amendments would not reverse this.

7. The determination of the application was due on 30 January 2024, and an extension of time was not suggested. The highway authority would also have needed to be re-consulted on the scheme with no certainty that the amendments would be acceptable. The council corresponded with the agent throughout and advised them of the recommendation. The applicant chose to produce amended plans and documents without an invitation or discussion.
8. Deciding to proceed with a decision does not amount to unreasonable behaviour. The applicant should have ensured sufficient information prior to submission. A second fee-free application could have been made in an attempt to overcome the highways refusal reason, but no application was submitted. The appellant has not incurred any unnecessary or wasted expense as the appellant would always have received the in-principal refusal with the resultant need to appeal. As such, the council did not act unreasonably.

Conclusions

9. The basis that the council refused to accept these documents was that the application was to be refused on the policy objection dealt with in the first refusal reason, and that the revised plan and Transport Statement would have no effect on that.
10. The applicant points to the advice in paragraph 38 of the NPPF, and the reference in the PPG to a lack of co-operation as an example of unreasonable behaviour. But it appears that there was a degree of dialogue between the parties. The council suggests that a free second application could have been made, using the revised plan and Transport Statement. There would be every prospect that a second application would be decided rather more quickly than an appeal. It appears that a second application would have resulted in a refusal, based on the policy reason, so that a subsequent appeal would seem inevitable, albeit perhaps dealing with just one refusal reason.
11. I note that the work of providing a revised plan and the Transport Statement had already been done, and the costs of that incurred. There was thus little in the way of extra costs to make the appeal.
12. My conclusion is that there was no unreasonable behaviour by the council in refusing to accept the new documentation at the stage that it was offered. Therefore the appellant was not put to unnecessary or wasted costs as a result of unreasonable behaviour.
13. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Terrence Kemmann-Lane

INSPECTOR